

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiffs,

v.

D-1 DR. RAJENDRA BOTHRA,

Defendant.

Case No. 18-cr-20800

Hon. Stephen J. Murphy, III

UNOPPOSED MOTION FOR LEAVE TO WITHDRAW AS COUNSEL

Under Local Rule 83.25, Miller, Canfield, Paddock and Stone, P.L.C., (“Miller Canfield”) respectfully moves the Court for leave to withdraw the firm and its attorneys who have appeared in this case as counsel for Defendant Dr. Rajendra Bothra. In support of the motion, Miller Canfield relies upon its Brief in Support of Motion for Leave to Withdraw as Counsel.

Pursuant to Local Rule 7.1, concurrence was sought from the Government, and the Government indicated that it does not oppose the motion. However, Local Rule 83.25 requires an order from the Court to permit the withdrawal of counsel.

Respectfully submitted,

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

By: s/Thomas W. Cranmer

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Dated: April 4, 2019

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**BRIEF IN SUPPORT OF
MOTION FOR LEAVE TO WITHDRAW AS COUNSEL**

QUESTION PRESENTED

Should the Court permit Miller Canfield and its attorneys who appeared in this case to withdraw as counsel for Defendant Rajendra Bothra?

STATEMENT OF FACTS

Defendant Dr. Rajendra Bothra engaged Miller Canfield to represent him in the criminal action pending in this district. Unfortunately, the undersigned counsel has discovered a conflict between continued representation of Dr. Bothra and a pre-existing client of the firm. The matter has been fully explained to both Dr. Bothra and the pre-existing client, and undersigned counsel has confirmed that the conflict may not be waived. Accordingly, the undersigned counsel move the Court for leave to withdraw as Dr. Bothra's counsel.

ARGUMENT

The Sixth Circuit embraces the Model Rules of Professional Conduct for guidance on attorney matters. *See e.g., Nat'l Union Fire Ins. Co. v. Alticor, Inc.*, 466 F.3d 456, 456 (6th Cir. 2006) (“[W]ith the wide-spread acceptance of the American Bar Association’s Model Rules of Professional Conduct, we now look to the codified Rules of Professional Conduct for guidance.”), *vacated in part on other grounds*, 472 F.3d 436 (6th Cir. 2007). Rule 1.16 of the Michigan Rules of Professional Conduct (“MRPC”) concerning termination and withdrawal from representation is substantially the same as the model rules. While these rules stop short of guaranteeing a right to withdraw, they confirm that withdrawal is presumptively appropriate where the Rule requirements are satisfied.

Specifically, MRPC 1.16 requires a lawyer to withdraw from the representation of a client if that representation will result in a violation of the Rules of Professional Conduct or if other good cause for withdrawal exists. MRPC 1.16(a)(1), (b)(6). And MRPC 1.7 requires a lawyer to withdraw from representation when a lawyer learns that representation of his client may be materially limited by the lawyer's responsibilities to another client unless consent is received from both clients. MRPC 1.7(b).

Unfortunately, the undersigned attorneys have learned of a conflict between Dr. Bothra and another of the firm's pre-existing clients. The undersigned attorneys have fully discussed the matter with both Dr. Bothra and the other client, and have confirmed that the conflict cannot be waived. The undersigned attorneys therefore respectfully submit that termination of their representation of Dr. Bothra is appropriate, particularly now that the Sixth Circuit has decided Dr. Bothra's bond appeal. It is the undersigned counsels' understanding that Dr. Bothra is in the final stages of retaining substitute counsel.

Under M.R.P.C. 1.16(b), attorneys are permitted to withdraw from the representation of a client if the withdrawal can be accomplished without material adverse effect on the client's interests. Here withdrawal will not adversely affect Dr. Bothra's interests. The undersigned attorneys have been engaged with assisting Dr. Bothra with his bond issue, which the Sixth Circuit decided on March 28, 2019.

Dr. Bothra's substitute counsel will have ample opportunity to review the Government's produced discovery and fully represent Dr. Bothra in his underlying criminal proceedings. Allowing withdrawal will permit new counsel to review and prepare the case as he or she sees fit, rather than inheriting a case closer to trial. Under these circumstances and given the early stage of the proceedings, withdrawal should be permitted.

CONCLUSION

Miller Canfield and its attorneys therefore respectfully request that the Court allow them to withdraw from further representation of Dr. Bothra in this matter.

Respectfully submitted,

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

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Attorneys for Defendant Rajendra Bothra

Dated: April 4, 2019

CERTIFICATE OF SERVICE

I hereby certify that on April 4, 2019, I electronically filed the foregoing document, with the Clerk of the court using the ECF system which sent notification of such filing to all parties of record.

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